

THE HONORABLE ROBERT S. LASNIK

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

JAMES MCDONALD,

Plaintiff,

v.

ONEWEST BANK, FSB, NORTHWEST
TRUSTEE SERVICES, INC., MORTGAGE
ELECTRONIC REGISTRATION SYSTEMS,
INC., INDYMAC BANK FSB, DOES 1-50,

Defendants.

No. 2:10-cv-01952-RSL

REPLY IN SUPPORT OF MOTION TO
SUPPLEMENT RECORD IN SUPPORT
OF DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT

NOTE ON MOTION CALENDAR:
December 14, 2012

Plaintiff's objections regarding the declaration of Christopher Corcoran from Deutsche Bank National Trust Company ("DBNTC"), are unfounded, incorrect, or both. In particular, plaintiff's speculative interpretation of terms in the two exhibits to the Corcoran declaration does not rebut his sworn statement that DBNTC held the original collateral loan file (which contained the original promissory note) from 2007 to 2010, when it sent that file to OneWest Bank, FSB ("OneWest").

REPLY IN SUPPORT OF MOTION TO SUPPLEMENT
RECORD, 2:10-cv-01952-RSL, page 1

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621 SW Morrison St., Suite 1450
Portland, Oregon 97205
503-222-4424

1 The Custodial Agreement, Exhibit A to the Corcoran declaration, in no way rebuts—
 2 and indeed confirms—Mr. Corcoran’s explanation of DBNTC’s role as custodian, and its
 3 obligation to release the loan file to OneWest upon demand, as it did in October 2010.
 4 Plaintiff’s mere beliefs about who bought loans from whom are irrelevant, and certainly do not
 5 create a dispute of material fact regarding DBNTC’s role as custodian of documents. Likewise,
 6 Corcoran’s declaration is entirely consistent with DBNTC’s internal “Complete Loan File
 7 Information” document (Exhibit B). Plaintiff’s conjecture about what the terms on that
 8 document mean also does not create a dispute of material fact regarding the declaration.

9 Plaintiff also points to a letter from counsel for DBNTC, which stated, “DBNTC does
 10 not have any information pertaining to a Form 1034 or 1036 authorizing documents to be
 11 released to OneWest, nor do we have a list of identification numbers associated with the note.”
 12 Pl.’s Obj., Ex. B. It is unclear what plaintiff thinks that language means, but in no way does it
 13 rebut DBNTC’s explanation that it possessed as custodian the original collateral loan file—
 14 including the original promissory note—from 2007 until 2010, when it sent that file to
 15 OneWest. Plaintiff also fails to note that in the same letter, counsel for DBNTC explained to
 16 plaintiff that DBNTC did act as custodian for the loan at issue in this case.

17 Mr. Corcoran can be available by phone or videoconference for the evidentiary hearing
 18 on January 31, 2013, if the court wishes any further clarification on the issues he addresses in
 19 his declaration.

20 Dated: December 14, 2012.

21 ROUTH CRABTREE OLSEN, P.S.

22 s/ Heidi E. Buck Morrison

23 Heidi E. Buck Morrison, WSBA # 41769
 24 Attorneys for Defendants OneWest Bank, F.S.B.,
 25 Mortgage Electronic Registration Systems, Inc.,
 26 and Northwest Trustee Services, Inc.

LARKINS VACURA LLP

s/ Julie R. Vacura

Julie R. Vacura, WSBA # 34588

Attorneys for Defendant OneWest Bank, F.S.B.
and Mortgage Electronic Registration Systems,
Inc.

CERTIFICATE OF SERVICE

I am employed in Multnomah County, State of Oregon. I am over the age of 18 and am not a party to the within action; my business address is 621 SW Morrison St., Suite 1450, Portland, Oregon 97205.

On December 14, 2012, I served the following document(s) described as:

**REPLY IN SUPPORT OF MOTION TO SUPPLEMENT RECORD IN
SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

on the party or parties listed on the following page(s) in the following manner(s):

☐ **BY HAND DELIVERY:** For each party, I caused a copy of the document(s) to be placed in a sealed envelope and caused such envelope to be delivered by messenger to the street address(es) indicated on the attached service list.

☐ **BY FEDERAL EXPRESS:** For each party, I caused a copy of the document(s) to be placed in a sealed envelope and caused such envelope to be delivered by Federal Express to the street address (es) indicated on the attached service list.

☐ **BY FIRST-CLASS MAIL:** For each party, I caused a copy of the document(s) to be placed in a sealed envelope and caused such envelope to be deposited in the United States mail at Portland, Oregon, with first-class postage thereon fully prepaid and addressed to the street address(es) indicated on the attached service list.

☐ **BY FACSIMILE:** For each party, I caused a copy of the document(s) to be sent by facsimile to the facsimile number(s) indicated on the attached service list. If this action is pending in Oregon state court, then printed confirmation of receipt of the facsimile generated by the transmitting machine is attached hereto.

☐ **BY E-MAIL:** For each party, I caused a copy of the document(s) to be sent by electronic mail to the e-mail address(es) indicated on the attached service list. If this action is pending in Oregon state court, then I received confirmation that the e-mail was received.

☒ **BY ECF:** For each party, I caused a copy of the document(s) to be sent by electronic mail via ECF to the e-mail address(es) indicated on the attached service list.

I declare under penalty of perjury under the laws of the State of Oregon that the foregoing is true and correct.

/s/ Julie R. Vacura

Julie R. Vacura

Ha Thu Dao

hadaojd@gmail.com

Attorney for Plaintiff